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## DOMESTIC VIOLENCE AND ITS CONSEQUENCES- A CASE STUDY FOR MALE VERSUS FEMALE

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### ABSTRACT

Domestic violence is still ranked among the most pervasive but complicated human rights and socio-legal problems throughout the jurisdictions. Conventionally viewed as violence against women, the concept has gradually come to include the victimization of men also, thus provoking the gendered underpinnings of domestic violence policies. The present paper represents a critical legal and socio-empirical appraisal of the problems of domestic violence and its impacts by comparing the issues related to the male and female victims. It discusses the conceptual framework of domestic violence, its physical, emotional, sexual, and economic aspects and appraises conflicting theoretical approaches, e.g., the feminist theory, the patriarchal theory and the gender-neutral family violence theory.

The paper examines both the international legal system, the UN and tools used to address the issue, such as the Convention on the Elimination of All Forms of Discrimination against Women, and the domestic legal framework in India, specifically the Protection of Women from Domestic Violence Act and provisions of the Indian Penal Code. The structural asymmetries found in legal recognition, enforcement mechanisms, and remedies available to male and female victims are determined using doctrinal and comparative analysis.

In addition, the paper assesses psychological, social, economic, and legal impacts of domestic violence on both sexes, including the problem of under-reporting, social stigma, regarding the misuse debates, and institutional bias. It claims that gender-specific legislation came as a remedial measure against historic discrimination; a degree of balancing is, however, required in light of changing social realities, which guarantee both substantive equality and inclusion. The paper ends with recommendations to enact limited legal changes, enhance institutional protective measures and the need to adopt a rights-based model in which domestic violence is seen as a human issue that cuts across the fixed gender dichotomies.

**Keywords:** Domestic Violence, Gender Neutrality, Male Victimization, PWDVA 2005, Gender Justice, Socio-Legal Consequences, Indian Legal Framework.

### Introduction

Domestic violence has traditionally been conceptualised as a widespread social and legal issue in terms of an imbalance of power relations in intimate and familial contexts. It involves physical, emotional, psychological,

sexual and economic abuse of a member of a household by another member, usually in a relationship of trust and dependency. There has been a considerable change in the meaning of domestic violence over time. Under the previous legal and social systems, domestic violence

was considered to be a personal issue, which did not need the attention of the state. The dominance of males was accepted by patriarchal norms in marriage and family relationships, which made abuses blind or admissible in society. During the twentieth century, particularly, due to the emergence of women's rights movements throughout the world and the evolution of human rights jurisprudence, domestic violence came to be viewed as an infringement of basic rights, such as the dignity, bodily integrity and equality. The Convention on the Elimination of All Forms of Discrimination Against Women (a global initiative) underlined the state's responsibility to ensure that women are not subjected to gender-based violence, which affects national laws of different jurisdictions.

Domestic violence traditionally has been viewed as the violence toward women. This is based on the empirical realities, which state that women have traditionally been disproportionately the victims of spousal abuse, dowry-related violence, marital rape, and other forms of coercion. Gender inequality, financial dependence, and adherence to deeply patriarchal principles in society have also made<sup>2695</sup> women highly susceptible in the home context. Therefore, reforms in the legal systems of most countries, such as India, were protectionist in nature towards women. Statutes such as the Protection of Women from Domestic Violence Act, 2005, were enacted to provide civil remedies, protection orders, and maintenance to women facing abuse within domestic relationships. Judicial interpretation has further strengthened women's rights by expanding the scope of shared household, economic abuse, and emotional cruelty.

Nevertheless, the modern discourse has started to argue with the single-gender structure. The new academic discourse and social discourse

are beginning to recognize that it is not exclusively female victimization as far as domestic violence is concerned. Even males can become the victims of physical aggression, emotional manipulation, false accusations, economic control and psychological trauma in intimate relationships. Even though the prevalence rates and structural context alternations can vary, the very fact of male victimization makes the traditional discourse according to which domestic violence is only a reflection of male hegemony over women more complicated. Movement of family dynamics, urbanization, economy and transformation of gender roles have changed the relationship between people, and sometimes resulted in mutual or female-based violence.

The socio-legal topicality of the relevant issue in modern society can hardly be underestimated. Domestic violence not only has individual victims but also impacts the whole social fabric, children and extended families. It affects the mental health, productivity, inter-generational trauma, and the healthcare systems of the population. The discussions of gender neutrality have escalated in India, especially with fears of abuse of some of the provisions, falsity of complaints and lack of legal redress against male victims of domestic violence. Such arguments overlap with the larger debates on substantive equality, protective discrimination, and the boundaries of affirmative legal systems.

The main issue, which is the focus of this research, is the gendering of domestic violence legislation and its meanings in terms of equal protection. The Indian legal framework, both civil rights and criminal law concerning cruelty by spouses or family members, is largely defined by the notion of women as victims and men as offenders. Such gender imbalance can create a legal gap in cases of male victims who can fall back on the broad criminal law that lacks particular recognition of the dynamics of domestic abuse. Besides, there is also a strong under-reporting of male victimization that is enhanced by social stigma and established

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<sup>2695</sup> World Health Organization. (2021). *Violence against women prevalence estimates, 2018: Global, regional and national prevalence estimates for intimate partner violence against women*. Geneva: WHO.

stereotypes. Cultural norms that men are supposed to be tough and have a strong heart do not allow them to seek assistance or consider themselves as victims. Consequently, the level or types of abuse that men are subjected to might not be well-established using empirical data.

The imbalance is not confined to statutory terms, but also to the institutions and attitudes of society. Shelters, helplines, and counseling services are services that are mainly targeted at women. This orientation has the right reason, given that violence against women is more prevalent, but at the same time, it leads to questions of inclusivity and accessibility for other victims. The law and society structure, therefore, seems to be working on the assumption that domestic violence is gender-biased towards one direction<sup>2696</sup>. Whether this presumption remains normatively defensible in a changing social landscape forms the crux of the present inquiry.

It is against this background that the main aim of this study will be to discuss the character and types of domestic violence experienced by men and women. It attempts to examine the legal system that regulates domestic violence in India, such as laws, judicial rules, and policy actions. Comparative evaluation of the impact of male and female victims, legal, psychological, social and economic consequences will be taken to have an insight into the dissimilar impact of abuse. The paper will also seek to assess the nature of the existing laws as being gender-specific and, to the extent that they are, whether it complies with the principles of equality and non-discrimination in the constitution. To achieve these ends, there are several research questions to guide the investigation. The first would be whether domestic violence is legally acknowledged and equally applied to both men and women as per the current statutory provisions. Second, what are the social and psychological implications

that the male victims go through compared to the female victims, and how are the impacts intertwined with the gender norms? Third, is the existing legal regime structurally gender biased to leave out specific victims or make assumptions about guilt based on gender? Lastly, would there be any legal and social consequences of restructuring the domestic violence laws to be gender-neutral?

The study hypothesis is that the existing domestic violence legislation in India is gender specific and does not pay enough attention to the victimization of men. The hypothesis does not nullify the existence of prevalent violence against women; on the contrary, it states that the current framework, albeit protective, could be marginalizing other victims unintentionally by not acknowledging their experiences under special domestic violence legislation<sup>2697</sup>. The hypothesis will be tested through doctrinal analysis, comparative evaluation, and examination of empirical data.

### Research Methodology

The method of research that is utilised in this study is mainly doctrinal. It is a careful examination of statutory laws, judicial rulings, legislative discussions and policy reports connected with domestic violence. This analysis will be complemented with secondary sources in the form of scholarly comments, journal articles, and professional reports. A comparative study will be conducted to review the conceptualizations and approaches to domestic violence as applied in different jurisdictions, especially in terms of gender neutrality. The case study approach will be employed to explain the lived experiences and legal paths of both genders of victims based on the judgments that have been reported and the narratives written down. Regular data that will be used to evaluate reporting, prevalence, and institutional response trends will be secondary data obtained through official sources such as the National Crime Records Bureau reports, Law

<sup>2696</sup> United Nations Office on Drugs and Crime. (2023). *Global study on homicide: Gender-related killing of women and girls*. Vienna: UNODC.

<sup>2697</sup> National Family Health Survey. (2021). *NFHS-5 (2019–21): India fact sheet*. Ministry of Health and Family Welfare, Government of India.

Commission reports and United Nations publications.

### Scope of Study

This paper is limited to the discussion of domestic violence in the framework of intimate and familial relationships, with a specific focus on the Indian legal framework. Although one can make comparative references to other jurisdictions in order to shed light on other models, the Indian law and Indian society are the main focus. The research covers civil and criminal aspects of domestic violence, but fails to cover more than domestic types of interpersonal violence in wider contexts. It also focuses on adult victims and does not provide an in-depth study of child abuse, unless this goes hand in hand with domestic dynamics. The fact that secondary data is used is also a major weakness, considering that such data might not fully reflect under-reported cases, particularly male victims. The stigma and absence of reporting systems in society, as well as the inability to analyse the data disaggregated by gender, limit the thorough empirical analysis<sup>2698</sup>. Moreover, domestic violence is extremely personal and sensitive, hence difficult to measure objectively. Irrespective of these drawbacks, the study attempts to offer a fine, balanced, and constitutionally based discussion on domestic violence and its impacts on men and women, and it is part of the existing discussions of equality, protection, and reform of the legal system.

### Conceptual Framework and Theoretical Framework

Domestic violence is a complex social and legal issue that is not limited to physical abuse, but is a whole range of abusive actions in intimate and family relations. It is typically interpreted as any action, inaction, or habit of a given individual to discriminate against another in the domestic context, which causes bodily harm, psychological distress, sexual violence, financial

loss, or emotional distress. The Indian situation is no exception, as designing the Protection of Women against Domestic Violence Act, 2005, influenced the change in perspective of looking at domestic violence as not merely being about physical assault, but also verbal, emotional, sexual, and economic abuse. The most evident of them is physical violence, which can be characterized by hitting, slapping, kicking, choking, or weaponry-inflicted harm. Nevertheless, the emphasis on the physical harm lowers the view of other kinds of abuses that are as harmful as the first one. Emotional and psychological abuse consists of intimidation, humiliation, threats, family and isolation.

friends, and sustained patterns of manipulation that erode an individual's self-worth and autonomy. Sexual abuse within domestic relationships includes non-consensual sexual acts, coercion, and marital rape, though the latter continues to generate intense legal and constitutional debate in India. Economic abuse is characterized by controlling access to financial resources, prohibiting employment, withholding maintenance, or dispossessing a person from shared household property<sup>2699</sup>. Verbal abuse, which is often condoned within the home environment, includes insults, ridicule, and constant derogatory comments that reinforce the structure of power and dependency. Combined, these types of violence prove that domestic violence is a process of control, but not separate acts of violence.

The conceptualization of domestic violence has been changing with varying views which have tried to explain its causative factors, dynamics and maintenance. It is through the feminist theory that domestic violence is conceptualised as a result of systemic inequality in gender embedded in patriarchal societal structures. It says that the issue of violence against women is not an individual quarrel, but a functional process of ensuring that male dominance is

<sup>2698</sup> Protection of Women from Domestic Violence Act, No. 43 of 2005, India Code (2005).

<sup>2699</sup> National Crime Records Bureau. (2022). *Crime in India 2022: Statistics on crimes against women*. Ministry of Home Affairs, Government of India. [counsellingof](https://ncrb.gov.in)

preserved. Violence in such societies where masculinity is linked with control and power can be justified as a disciplinary or corrective action. These theories have greatly contributed to the development of gender sensitive laws and campaigns across the globe.

Conversely, the Social Learning Theory assumes that it is through observation and reinforcement in the family and community setup that violent behaviour is acquired. Violence that is witnessed by individuals in childhood might become embedded in the system as an acceptable system of conflict resolution. This view accentuates the inter-generational spread and the necessity behind initial intervention, counseling, and conduct reformation. On the other hand, the gender-neutral theory or family violence theory holds that any gender can be the perpetrator of domestic violence, and it may be a result of situational stress or a result of a conflicting or dysfunctional relationship. Although this theory has expanded the discourse to include male and older victims, critics say that this theory might shift the focus to the structural gender inequalities. However, it contributes to its part in terms of its focus on inclusivity and the necessity of support systems regardless of gender.

The subsequent development of the domestic violence laws shows how society changed its attitude over time, and it began to see domestic abuse as a societal issue, which has to be addressed by the state. In the international arena, it has gained a lot of momentum in the late twentieth century through the worldwide women's rights movement. Violence against women was recognized as a form of discrimination by such instruments as the Convention on the Elimination of All Forms of Discrimination against Women. The duty of states to prevent, investigate and punish instances of domestic violence was bolstered by subsequent declarations such as the Declaration on the Elimination of Violence against Women. All of this redefined domestic violence as a violation of human rights and not an individual complaint.

In India, the legal reaction was developed in gradual stages. The criminal law provisions early on, especially the Indian Penal Code Section 498A, dealt with the cruelty of husbands and other relatives, but they were narrow in nature and were mainly in the nature of punishment. Cruelty, as conceived by judicial interpretation, grew more and more to touch mental harassment and abuse based on dowry. Nevertheless, there were no civil remedies like residence orders, protection orders, and maintenance orders that opened up serious loopholes. The creation of the Protection of Women against Domestic Violence Act, 2005, was a paradigm shift, given that it took a rights-based remedial approach. It gave direct civil relief, legalized relations in the institution of marriage, and accepted other forms of abuse than physical violence. Protection officers and service providers were also provided for in the Act to ease access to justice.

Therefore, the sociological, psychological, and legal views on domestic violence today are integrated into the conceptual framework of the issue. It acknowledges that domestic abuse is deeply-rooted in the interplay of power, gender expectations, learned behaviour, and structural inequality. The policy-making process and judicial interpretation remain to be affected by the theoretical debates, especially in the modern debate on gender neutrality, marital rape, and protective mechanisms that should be inclusive of all.

### **International Legal System**

The international legal framework that deals with domestic violence is based on the wider human rights structure that was designed since the inception of the United Nations. Even though the early human rights instruments did not specifically use the term domestic violence, the underpinning guarantees that the instruments provided have been gradually construed to refer to the protection of violence in the domestic sphere. The normative basis was established by the Universal Declaration of Human Rights (1948): it stated the equal rights

and dignity of all human beings. The right to life, liberty, and security of person, the prohibition of cruel, inhuman or degrading treatment and equality before the law are all provisions that offer a conceptual framework of handling the issue of domestic violence as a human rights violation. The Declaration is not legally binding, but it has gained great moral and customary power and affected binding treaties and domestic constitutions in jurisdictions. Making domestic violence in the framework of the Declaration, it is not simply a domestic family issue, but a violation of the fundamental dignity and equality of human beings.

The rhythm toward the overt acknowledgement of violence inside the family as a type of gender-based discrimination became even stronger with the incorporation of the Convention on the Elimination of all forms of Discrimination against Women (1979). CEDAW has been generally referred to as a global declaration of rights for women. Although a specific and exact definition of violence against women is not initially found in the Convention, the document regarding the eradication of discrimination in political, social, economic, and family life has also been widely understood by the CEDAW Committee to include gender-based violence<sup>2700</sup>. The Committee made it clear, through General Recommendations, especially General Recommendation No. 19 and its subsequent General Recommendation No. 35, that gender-based violence, of which domestic violence is a subset, is discrimination under the meaning of the Convention. The parties to the state are thus not only obligated to avoid committing the direct violations but also to exercise due diligence in preventing, investigating, punishing and remedying the actions of violence perpetrated by individuals in private. This norm of due diligence was a groundbreaking change to international law in that the separation between the state and the business had historically ensured that domestic

abuse could remain beyond the reach of state justice.

This was further normatively consolidated when the UN General Assembly adopted the Declaration on the Elimination of Violence against Women. This Declaration actually identified violence against women as comprising physical, sexual and psychological violence within the family, within the general community and through the State or condoned by the State. The fact that domestic violence was referred to as a human rights violation by the Declaration strengthened the view that culture, religion, or even privacy cannot be used as a justification for abuse. It also encouraged states to come up with penal, civil, labor and administrative sanctions and provide victims support services.

The comparative international approaches demonstrate different ways in which these international norms are translated into domestic laws. Over time in the United Kingdom, the legal system that deals with domestic abuse has continued to develop into a gender-neutral system without being insensitive to gendered patterns of victimization. The Domestic Abuse Act 2021 brings together and updates protections by giving a statutory definition of domestic abuse, which covers physical, emotional, coercive, and economic abuse. It cuts across all genders and acknowledges that a child is a victim in his/her own right when he/she is exposed to abuse. The UK system focuses on protective orders, victim support services, and multi-agency coordination, which are rights-based but inclusive to ensure that protection is not formally limited to women.

The Violence Against Women Act has had a great influence on the federal response in the United States. Passed in 1994 and renewed multiple times since, VAWA has provided funding for research and prosecution, the development of specialised courts, and increased services to survivors. Though it was created with the concept of violence against

<sup>2700</sup> United Nations. (1979). *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*.

women, the Act has since been modified to cover male victims, LGBTQ people, and marginalized communities. The American model is used as a reflection of both criminal justice intervention and community-based support, but the implementation is varied among states as the federal structure is adopted<sup>2701</sup>. It is also worth noting that the legislation highlights the relationship between domestic violence and the wider issues of civil rights, as systemic discrimination increases vulnerability.

Together, the international legal system reflects a progressive but firm transition towards the understanding of the issue of domestic violence as a family issue, to a severe violation of human rights. Using instruments of the world and the experience of different countries, the law is becoming more confident that states have a positive duty to prevent the abuse of people in intimate relations. This intersection of universal human rights standards with local legislative creativity indicates the changing perception that successful protection does not just depend on criminalization but must also be based on structural change, institutional responsibility and long-term dedication to equality and human dignity.

### Domestic Violence Laws in India

The law against domestic violence within the Indian context is based on constitutional provisions, legislative acts and the common sense of judicial activism. It is all about the pledge of the Constitution of India to guarantee equality, dignity and life with liberty to all. Article 14 also ensures equality before the law and equal protection of the law, which is the initial framework on the issue of contesting against discrimination in domestic relations. Article 15 is against discrimination based on sex, and it grants the State the right to make special considerations regarding women and children, thus justifying the existence of protective laws against domestic violence. Article 21, the right to

life and personal liberty, has been broadly applied by the courts to mean the right to live with dignity, bodily integrity, mental well-being and free of violence. These constitutional guarantees are directly violated by domestic violence, be it physical, emotional, sexual, or even economic. Courts have restated on numerous occasions that violence in the home is not a domestic affair that can be left alone, but is a defiance of the fundamental rights through the progressive interpretation of the Constitution.

In particular, the legislative framework governing the issue of domestic violence is based mostly on the Protection of Women against Domestic Violence Act, 2005. The Act is an important departure point in the history of criminal-law-focused responses, as it is enacted to offer immediate and effective civil remedies. It identifies domestic violence expansively and inclusively, encompassing physical abuse, verbal and emotional abuse, sexual abuse and economic abuse. The Act not only offers protection to legally married wives but also to women in cohabiting relationships of the nature of marriage, hence accepting the changing social realities. It grants protection orders, residence orders, monetary relief, custody orders and compensation orders, thus a holistic remedial framework is guaranteed. Notably, the process in this Act is civil, but violation of protection orders is a criminal liability. The act is therefore a mixture of preventive, defensive and punitive measures to make sure that the rights of the injured women are enforced.

Simultaneously with this civil system, there is the criminal law covering domestic cruelty under the Indian Penal Code. Section 498A expressly punishes inhumanity by a husband or his kin to a woman who has been married. Cruelty in this provision consists of acts that are likely to lead a woman to commit suicide, cause serious injury or harassment regarding illegal demands of property or dowry. This was added to fight the terrible increase in dowry-related violence and murders. Moreover, the general penal clauses

<sup>2701</sup> United Nations. (1979). *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*.

about assaults, injuries, grievous injuries, criminal intimidation, and infringement of the decency of a woman are also regularly invoked in the case of domestic violence. Parts addressing abetment of suicide and dowry death are additional supportive provisions to the protective framework, where violence results in fatal outcomes.

The family law acts also contribute a lot in the case of domestic violence. In the personal laws of marriage and divorce, cruelty is a known basis for divorce and judicial separation. In adjudicating claims of matrimonial lawsuits, courts will often evaluate claims of domestic abuse and award remedies like maintenance, custody, and residence rights<sup>2702</sup>. The family law and domestic violence law overlap guarantee that the victims do not limit criminal prosecution; they may demand dissolving abusive relations with the family and gaining financial protection. The Criminal procedural law and personal statutes in maintenance offer further economic protection to aggrieved spouses.

The issue of judicial interpretation has greatly influenced the lines of domestic violence jurisprudence in India. *Vishaka v. The Supreme Court*, 1991. Coming to the issue of sexual harassment at the workplace, the State of Rajasthan acknowledged the concept of gender equality and dignity as inalienable rights as a result of Articles 14, 15, and 21, which impacted future case law regarding gender-based violence. In *S.R. Batra v. The Court* gave the Domestic Violence Act a wider meaning of shared household, which Taruna Batra explained, but which subsequently spawned a debate and was subsequently reviewed in later decisions. In *Hiral P. Harsora v. The Supreme Court* ruled that the words adult male be eliminated in the act and therefore institutionalized the case of female relatives as respondents, thereby serving the constitutional values of equality.

<sup>2702</sup> Michael P. Johnson. (2008). *A typology of domestic violence: Intimate terrorism, violent resistance, and situational couple violence*. Boston: Northeastern University Press. <https://www.researchgate.net/publication/310111111>

The courts have brought up issues of the abuse of Section 498A of the Penal Code. In *Arnesh Kumar v. The Supreme Court of state of Bihar* has provided a set of guideline to avoid automatic arrests in the dowry related cases and it is necessary to provide the protection to the real victims and at the same time ensure that there is no automatic deprivation of liberty. The Court admitted that there are cases of misuse, but warned of not losing the grave nature of domestic violence or in taking away the protective nature of the provision. Later rulings have restated that complaints should be examined with a lot of care without diminishing the plight of women.

Gender neutrality observations have slowly found their way to the judicial discourse. Although Domestic Violence Act is clearly aimed at safeguarding women, the courts have realized that men can also suffer domestic violence. Nevertheless, the existing statutory scheme stands out as a gendered protective practice based on the acknowledgement of structural inequalities and the dominance of women by domestic violence. Meanwhile, the courts have tried to do justice in the field of criminal justice by making certain that no one is automatically arrested, but mediation should be encouraged in situations that warrant it.

The Indian legal system on domestic violence is a complex system that is comprised of constitutional provisions, civil relief, criminal penalties and judicial supervision. It shows a change in perception towards the domestic abuse, as a family issue, to the consideration of it as the severe infringement of human dignity and fundamental rights. Although the problems of implementation, misuse claims, and gender neutrality remain, the constitutional and statutory framework is still adjusted to adapt to the shifting social circumstances and judicial interpretation.

### **Domestic Violence: Male v/s Female.**

The issue of domestic violence against women is also one of the most widespread but least reported human rights violations in India that

transcends across classes, caste, religion and region. The National Crime Records Bureau statistics of cruelty by husband or relatives are always the first to attract the highest number of crimes against women under the IPC 498A category. Each year, such a category of crimes against women represents a significant percentage of all crimes against women, which proves that violence in the domestic environment is not an isolated phenomenon but a structural problem that exists in the system of patriarchy and unequal power relations. Abuse is also not just a physical assault, but also emotional manipulation, verbal degradation, economic deprivation, marital rape (which is based in India in only a few situations and is yet to be fully criminalized), and coercive control. The patterns of abuse usually take a cyclical pattern of tension building, acute violence, reconciliation, and calm, making it hard for survivors to leave abusive relationships permanently. Financial dependency, the fear of being socially ostracized, concern of children and the absence of family support are the reasons why many women must face prolonged violence.

Legal frameworks in domestic violence against women have stems majorly under the Protection of Women against Domestic Violence Act, 2005 (PWDVA), as it was a major turnaround in consideration of domestic violence against women as a purely criminal action rather than a civil protection action as a right action. The Act grants protection orders which prohibit the respondent from engaging in further violent acts, contact with the aggrieved woman or going to her workplace. Residence orders make sure that a woman has no right to be kicked out of the shared house regardless of the ownership rights, thus acknowledging the right to good housing. Courts can order the payment of medical costs, loss of earnings and maintenance by means of monetary relief and temporary custody to the aggrieved woman in the interests of the children, which is possible through custody orders. Also, the Act offers the possibility of appointment of a Protection Officer

and identification of Service Providers to ensure access to medical, legal, and shelter assistance. There are parallel remedies to this under Section 498A of the Indian Penal Code and maintenance under Section 125 of the Code of Criminal Procedure. The judicial interpretation has contributed greatly to broadening the protection scope. In cases such as *V.D. Bhanot v. The Supreme Court* explained that the Act is retrospective in some situations and thus extended the coverage of women who were victims of such past acts of violence.

Although these laws have been instituted, the social and psychological impacts of domestic violence are still far-reaching and enduring. Survivors also experience post-traumatic stress disorder, constant anxiety, depression, sleeping problems, and suicidal thoughts. Constant humiliation and assault destroy self-esteem and cause learned helplessness. The psychological burden is enhanced by economic dependency, especially when the women do not have an independent source of income or rights to property. The financial vulnerability is strengthened by the need of many to abandon employment as a result of coercive control or physical harm. Social stigma also contributes to discouragement of reporting; when women are seeking remedies in courts, they are usually accused of breaking the family or increasing conflicts. Jurisdictional case studies have been found to have resilience and systemic gaps. Women have also been able to obtain residence and protection orders, which have served to keep matrimonial houses under their belt, in several reported cases. Nevertheless, the slow nature of the proceedings, ineffective protection order enforcement, and the lack of infrastructure like shelter homes and counselling facilities constrain the transformative nature of the law. Courts have stressed sensitivity and prompt disposal in some high-profile cases, but there is no consistent implementation at the ground level. As a result of the legal forums that they have to deal with in several courts at the same time, such as the criminal courts, family courts and

magistrates' courts, female victims end up experiencing procedure fatigue.

Although the issue of domestic violence has mainly been addressed in the context of violence against women, it is increasingly being recognized that men can also be abused in intimate relationships. Nonetheless, there is a lack of prevalence data about male victims, which is arguable. Under-reporting is one of the focus problems; society stereotypes masculinity as strength and invulnerability to emotions, making men reluctant to call themselves the victims. People are afraid of being mocked, not accepted or even accused of being weak when they go to the law enforcement officials. Male victims, unlike women, are denied access to a well-developed civil protection system similar to that of the PWDVA because the law is clearly gender-based. Thus, men who claim to have been domestically abused are left to claim under general criminal law against assault, criminal intimidation or defamation, which does not extend the same range of immediate civil protection, such as residence or protection orders, to them.

Male survivors have severe social and psychological effects, although not well-documented. Humiliation, emotional abuse, and betrayal can be the cause of depression, drug abuse, and suicidal behaviour. The stigma surrounding the victimized of males usually gets in the way of seeking counselling or peer support. In custody and divorce cases, there is occasionally some influence of prevailing gender norms in making assumptions of care giving roles, but there is a growing tendency of courts to use the best interests of the child standard, regardless of the gender of the parent.

Instances of male survivors are usually brought to light by marriage breakthroughs both parties accusing each other of cruelty. In some cases, the courts have accepted mental cruelty committed against husbands and awarded the divorce. Nevertheless, there is no dedicated statutory framework, and hence relief is still

reactive and in pieces, rather than preventive. The greater difficulty is in formulating a legal mechanism that considers the gendered nature of domestic violence, where women are the vast majority of the victims, and at the same time makes sure that no survivor, regardless of gender, is left without justice. A subtle strategy should then be used to both strengthen the application of women-specific protection and tolerance to gender neutrality, victim facilitation services, and evidence-based policy change.

### **Comparative Analysis: Male vs. Female Victimization**

The comparative study of male and female victimization in the context of domestic violence indicates that there is some similarity in experiences, as well as significant differences that are influenced by the standards of gender, hierarchies, and legal practices. Regarding the nature and pattern of violence, the current research tends to show that women are more predisposed to endure more frequent and serious cases of physical violence, such as life-threatening attacks and sexual coercion, and these, in most cases, occur within the surrounding patterns of coercion. However, isolated cases of physical aggression, emotional abuse, or psychological manipulation are more commonly reported by men. Other researchers indicate that there can be mutual aggression in domestic conflicts, particularly in high interpersonal conflict relationships. Nevertheless, the context and aftermath of such violence are usually different. Women's violence is more often related to fear, harm, and domination, whereas men's violence, although substantive, is not necessarily accompanied by the same scale of intimidation or bodily injury. These differences do not deny the victims of the sex but underscore the structural and contextual aspects of severity and occurrence.

Gender disparities are also coupled with access to justice. In jurisdictions where special protective laws exist, women have better chances of securing a formal legal status

concerning their status as victims. Specific legislation, guardians, and shelter houses establish a rather organized route to the redress. The accessibility to legal assistance is also not similar; various support services and non-governmental programs are aimed at the female survivors predominantly, and male victims have little institutional support. The credibility of male complainants can be influenced by institutional bias that is informed by the ingrained stereotypes that perceive femininity and aggression to be part of the same. This bias can lead to discouragement of reporting and can also lead to under-reporting of male victimization.

The implications of domestic violence show similarities and differences. Male and female survivors can be psychologically depressed, anxious, have post-traumatic stress, and have low self-esteem. But women tend to complain of chronic fear and being alone socially because of financial reliance or fear of children being threatened. Financially, women survivors are mostly disrupted in terms of employment, control of finances by partners, and difficulties in acquiring maintenance or residence privileges. Male victims can lose their reputations and careers, especially when it comes to counter-allegations. The social impacts are different as well, where women are likely to experience a stigma related to marital failure, and men are likely to be ridiculed or distrusted because they reveal abuse, which makes them still silent. Although empirical data indicate that the percentage of demonstrably untrue complaints is lower than most people assume, even a few cases of false or exaggerated claims can be devastating to the accused person or Organisation, resulting in arrest, social disapproval, and expensive legal actions.

The misuse debate is positioned in the comparative discourse as taking a contentious position. Proponents of women's rights highlight that there is a need to enforce powerful legal protections to deal with institutional inequality and ingrained abuse trends. Simultaneously, the

issues of procedural fairness, arbitrary arrests, and the lack of gender neutrality have led to the demands to provide more moderate protection, such as the establishment of preliminary inquiry procedures and malicious prosecution penalties. This will be a balanced answer because the structural reality of violence against women should be taken seriously, yet the law must be fair, evidence-based, and sensitive to all the victims, regardless of their gender.

### **Socio-legal Consequences of Domestic Violence**

The effects of domestic violence go well past direct physical harm and can physically harm to the victims. It ruins the social structure of families, distorts the legal relations, and places the long-term burdens on the institutions that should promote welfare and justice. One of the most significant socio-legal effects is the effect it has on children. Although children are not the victims of violence directly, the vulnerability to witnessing the abuse at home radically changes their emotional and psychological growth. Hostility, fear, and instability build up and result in anxiety, depression, a preference for aggression, and an inability to form secure attachment. With time, such exposure can become normalize as violence is a normal way of settling conflicts, thus leading to inter-generational trauma. Living in violent settings, children tend to absorb skewed ideas about gender roles, authority and relationships, which predisposes them to either being abusers or abused.

This is a trauma with ripple effects that are frequently faced by the legal system in the context of custody and guardianship disputes. Courts that hear the cases based on efforts of the statutes like the Protection of Women from Domestic Violence Act, 2005 and the Hindu Minority and Guardianship Act, 1956, need to strike a balance between the rights of parents and the best interest of the child that comes first. Once the custody is involved, then the alleged cases of domestic violence complicate

custody, especially when the abusive parent wants visitation rights. In most instances, the extended court proceedings cause emotional pressure in children who can be forced to give evidence or undergo psychological assessments. Therefore, domestic violence not only disrupts the family systems but also puts children in the crossfire of trauma and litigation.

Another important effect of domestic violence is the economic impact. Financial dependence is often the outcome of abuse, as the victims can be denied the opportunity to work or have access to household resources. Economic control is commonly used as a coercion instrument to restrict the control of the victim, as well as to reduce his/her power to leave abusive relations. When violence results in separation or divorce, families will undergo the disintegration of financial means, expensive court proceedings, and possible poverty. The purpose of maintenance proceedings in the context of law, like the Code of Criminal Procedure, 1973, especially Section 125, is to offer monetary compensation, but because of the difficulties of enforcement and delays in the process, it has not been very effective. The economic burden is spread to children, whose education, illness, and well-being in general can be impaired because of low income in the family.

Domestic violence is a systemic and long-term burden from a public health perspective. Injuries, reproductive health complications, and chronic illnesses caused by stress are often treated by the survivors<sup>2703</sup>. The repercussions of mental health, such as post-traumatic stress disorder and suicidal thoughts, require therapeutic interventions that are long-term in nature. The healthcare system in society, especially in areas with limited resources, experiences pressure with no necessary growth of infrastructure or qualified staff. Moreover, due to the lack of appropriate screening procedures in medical organisations, there is a frequent

tendency to undervalue the situation as a whole, which leads to under-reporting.

Domestic violence cases also come with the burden of the criminal justice system. The police have to spend resources on the repeated complaints, the enforcement of the protection orders and the investigation of associated crimes. There is docket congestion in the courts, resulting in delays that undermine deterrence and make victims lose faith in a legal solution. There is also the cost of incarcerating the offenders, in the form of the prison and correctional facility. The punitive responses, however, are simply not enough to correct the socio-cultural causes of abuse. Legal sanctions are likely to be reactive instead of proactive without the coordinated interventions that can be based on counselling, rehabilitation, and community education. As a result, domestic violence is not only a personal conflict but a multidimensional problem in the social context that has extensive legal, economic, and institutional implications.

### **Gender Neutrality and Legal Reform needed**

The gender neutrality and legal reform debate in domestic violence jurisprudence is a more fundamental conflict between formal and substantive justice. Legislation on domestic violence in India, especially the Protection of Women against Domestic Violence Act, 2005 (PWDVA), came into being as a reflection of the traditionally established and institutionalized status of subordination of women in patriarchal societies. The case of gender specific legislation lies in the empirical fact of structural inequality, where women are disproportionately the victims of physical, emotional, sexual and economic abuse in domestic bonds. The judiciary has also been recognising the validity of classification as provided in the Constitution of India, especially in Article 15(3), where it allows special treatment to women and children. Such gender-specific protections are thus not being justified based on being discriminatory, but as constitutionally legitimate affirmative action that is aimed at making

<sup>2703</sup> Save Family Foundation. (2020). *Men and domestic violence in India: A study report*.

substantive equality a reality in a society where gendered violence continues to be a commonplace occurrence.

Meanwhile, the arguments on the basis of gender-neutral laws have become more and more prominent in modern discourse. The opponents argue that limiting domestic violence protection to women would tend to leave other victims, such as men, elderly parents and same sex relationships. The non-discriminating legal system is based on the principle of equality before the law and equal protection under the laws with Article 14 of the Constitution of India<sup>2704</sup>. In this perspective, a law that limits civil protective remedies to the male victims would perpetuate the stereotypes of men being the only perpetrators and never victims. Case studies and empirical evidence suggest that even men can be emotionally abused, corrosively controlled and even physically battered, but because of social stigma and current ideas about masculinity, the issue tends to go unreported. The need to consider gender neutrality, therefore, does not come out as a refusal of the vulnerability of women but a request to make the framework more inclusive and rights-based.

The case of reform is further enforced by the international developments. Some jurisdictions, including the United Kingdom, have adopted a gender-neutral definition of domestic abuse due to the realization that both victims and perpetrators can be of either gender. Likewise, the Violence Against Women Act of the United States, though originally based on the protection of women, with time has transformed in its application to offer its services and remedies regardless of gender. These models show that the recognition of the disproportionate contribution of domestic violence on women should not exclude the legal protection of other victims. The way ahead, however, is to reconcile the constitutional promise of equality and the ethical necessity to

confront structural gender injustice. Neutrality in drafting about gender does not have to destroy feminist achievements so long as it is done with sensitivity to the social reality. A reform agenda that acknowledges the historic marginalisation of women and, at the same time, guarantees them equal access to solutions for all victims can make the law on domestic violence become more legitimate and effective in India.

### Conclusion

The comparative analysis conducted in the current paper demonstrates that domestic violence is a very deep-seated social problem that involves gender, cultural, and jurisdictional boundaries as well as lawful responses to it but, so far, there have been disproportionate in most of the cases and as such, they are swayed by traditional gender beliefs. Protection of women against domestic violence act in India is a radical law against violence against women in marriage or home relationship. It expands the concept of violence and includes physical, emotional, economic and sexual violence and this deepens the concept of domestic oppression as a multidimensional one. However, it is also gendered as compared to other jurisdictions such as the United Kingdom and part of the United States where the domestic violence legislation is largely gender-neutral in its construction. This comparative method recognizes a key paradox between the need to offer gender-sensitive protection grounded on historical and structural inequity against women and the constitutionality and demands of equality and non-discrimination that demand that all victims of abuse, irrespective of their gender, be taken into account.

Patriarchal norms, economic dependence and social stigma against women have been contributing to the disproportionate rates of domestic abuse among women in India. A gender-sensitive law is thus approved as a remedial mechanism meant to achieve substantive equality. Simultaneously, the lack of the statutory framework covering the male victims and other non-female victims

<sup>2704</sup> Centers for Disease Control and Prevention. (2022). *National Intimate Partner and Sexual Violence Survey (NISVS): 2016/2017 report*.

generates a gap in the protection and supports those stereotypes that a man cannot become a victim. The inclusive model should not undermine empirical facts by undermining the protection guaranteed to women. This equality under the Constitution, requires the protection against violence to be victim-based and not gender-based but again allows special protection when the vulnerability is proven to be greater. The solution is to continue with the more inclusive and evidence-based model of legislation that maintains close protection of women but includes all victims of domestic violence in the list of those whose actions require remedies and protection. This can be through the introduction of non gender language, improving supportive services, improving services related to counselling and shelters and making the judicial processes sensitive to claims made by different victims. The change in the attitudes of the society is also important. The change in the law will not eliminate domestic violence, but only with a long-term campaign to disrupt patriarchal standards, break the harmful stereotypes of masculinity, and encourage the culture of respect in the family should it improve. With the work of the legal institutions, education and awareness campaigns, as well as community engagement, a society in which domestic violence is neither normalized nor silenced, should be created.

